

AMENDED IN ASSEMBLY APRIL 8, 2010  
AMENDED IN SENATE SEPTEMBER 1, 2009  
AMENDED IN SENATE AUGUST 24, 2009

**SENATE BILL**

**No. 579**

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**Introduced by Senator Lowenthal**

February 27, 2009

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~~An act to add and repeal Section 40440.13 of the Health and Safety Code, relating to the South Coast Air Quality Management District, and declaring the urgency thereof, to take effect immediately. An act to amend Section 48632 of the Public Resources Code, relating to oil, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 579, as amended, Lowenthal. ~~South Coast Air Quality Management District; CEQA; permits. Used oil.~~

*The California Oil Recycling Enhancement Act, administered by the Department of Resources Recycling and Recovery, among other things, authorizes the department to issue grants to, or contract with, local governments, nonprofit entities, and private entities for specified purposes including, among other things, the purpose of protecting advancements and developments in lubricating oil. Existing law establishes the Used Oil Recycling Fund and continuously appropriates money from the fund to the department to provide, among other things, grants and contracts to local governments, nonprofit entities, and private entities.*

*This bill would instead authorize the department to issue grants to, or contract with, local governments, nonprofit entities, and private entities for the purpose of product advancements and developments in*

*lubricating oil. By changing the purposes for which money in the fund may be used, the bill would thereby make an appropriation.*

~~(1) The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA exempts certain specified projects from its requirements.~~

~~Under existing law, every air pollution control district or air quality management district in a federal nonattainment area for any national ambient air quality standard is required to establish by regulation, a system by which all reductions in emissions of air contaminants that are to be used to offset certain future increases in the emission of air contaminants are banked prior to use. The South Coast Air Quality Management District (district) promulgated various rules establishing offset exemptions, providing Priority Reserve offset credits, and creating or tracking credits used for offset exemption or Priority Reserve projects. In *Natural Resources Defense Council v. South Coast Air Quality Management District* (Super. Ct. Los Angeles County, 2007, No. BS 110792), the superior court found the promulgation of certain of these district rules to be in violation of CEQA.~~

~~This bill would authorize the district to issue permits under specified circumstances, notwithstanding this court decision. The provisions of the bill would be repealed on May 1, 2012.~~

~~(2) This bill would state the findings and declarations of the Legislature concerning the need for special legislation.~~

~~(3) This bill would declare that it is to take effect immediately as an urgency statute.~~

~~Vote:  $\frac{2}{3}$ -majority. Appropriation: no-yes. Fiscal committee: no-yes. State-mandated local program: no.~~

*The people of the State of California do enact as follows:*

1     **SECTION 1.** *Section 48632 of the Public Resources Code is*  
2 *amended to read:*

3     48632. ~~The board~~ *Department of Resources Recycling and*  
4 *Recovery* may, pursuant to subdivision (b) of Section 48631, issue  
5 grants to or contract with local governments, nonprofit entities,  
6 and private entities, for any of the following purposes:

7     (a) Providing and maintaining collection and recycling  
8 opportunities for used lubricating oil and filters that are in addition  
9 to those included in the local used oil collection programs adopted  
10 pursuant to Article 10 (commencing with Section 48690).

11     (b) Research, testing, and demonstration projects for in-service  
12 uses, collection technologies, and end-of-life used oil management.

13     (c) Developing uses and markets for low environmental impact  
14 products resulting from the recycling of used oil, including, but  
15 not limited to, promoting the manufacture of rerefined lubricating  
16 oil.

17     (d) ~~Protecting~~ *Product* advancements and developments in  
18 lubricating oil resulting from, but not limited to, new requirements  
19 or technologies in fuel efficiency and performance, synthetic or  
20 biobased lubricants, alternative fuels, and methods to extend  
21 lubricating oil life.

22     (e) Education and mitigation projects relating to stormwater  
23 pollution from used oil and its impacts on receiving waters, soils,  
24 and oceans.

25     (f) A local government shall not receive a grant or contract  
26 pursuant to this section for any purpose identified in subdivision  
27 (e) unless the local government certifies that it has a stormwater  
28 management program that is approved by the appropriate California  
29 regional water quality control board and that the project approved  
30 for funding under subdivision (e) is consistent with that approved  
31 stormwater management program.

32     (g) An information and education program pursuant to  
33 subdivision (c) of Section 48631.

34     ~~SECTION 1. The Legislature finds and declares all of the~~  
35 ~~following:~~

36     ~~(a) As a result of the superior court decision in Natural~~  
37 ~~Resources Defense Council v. South Coast Air Quality~~  
38 ~~Management District (Super. Ct. Los Angeles County, 2007, No.~~

~~BS 110792) holding that the South Coast Air Quality Management District (district) violated the requirements of the California Environmental Quality Act (CEQA) (Division 13 (commencing with Section 21000) of the Public Resources Code) in the promulgation of certain district rules, the district is unable to issue over a thousand pending permits that rely on the district's internal offset bank to offset emissions.~~

~~(b) The district may also have to set aside several thousand permits that were previously issued in reliance on the district's internal offset bank.~~

~~(c) Prompt legislative action is necessary as an interim measure; otherwise projects will be stopped from going forward or frozen in place, representing significant losses to the economy and the loss of numerous well-paying jobs.~~

~~(d) Nothing in the case described in subdivision (a) requires the setting aside of any permit issued by the South Coast Air Quality Management District to any essential public service, that relied on Rule 1309.1, nor any permit that relied on Rule 1304, between September 8, 2006, and November 3, 2008.~~

~~SEC. 2. Section 40440.13 is added to the Health and Safety Code, to read:~~

~~40440.13. (a) Notwithstanding the decision of the court in Natural Resources Defense Council v. South Coast Air Quality Management District (Super. Ct. Los Angeles County, 2007, No. BS 110792), the south coast district~~

~~may issue permits in reliance on, and in compliance with, south coast district Rule 1304, as amended on June 14, 1996, except for an electrical generation facility, and Rule 1309.1, as amended May 3, 2002, for essential public services, as defined in subdivision (m) of Rule 1302, as amended December 6, 2002.~~

~~(b) Nothing in this section affects the decision in the case described in subdivision (a) concerning the adoption, readoption, or amendment, or environmental review, of south coast district Rule 1315.~~

~~(c) In implementing subdivision (a), the south coast district shall rely on the emission reduction credit tracking system used prior to the adoption of Rule 1315, until a new tracking system is approved by the United States Environmental Protection Agency and is in effect, at which point that new system shall be used by the south coast district in implementing subdivision (a). The south~~

1 ~~coast district shall make information concerning the credits, and~~  
2 ~~the tracking of these credits, available to the public.~~

3 ~~(d) This section shall remain in effect only until May 1, 2012,~~  
4 ~~and as of that date is repealed, unless a later enacted statute, that~~  
5 ~~is enacted before May 1, 2012, deletes or extends that date.~~

6 ~~SEC. 3. The Legislature finds and declares that a special law~~  
7 ~~is necessary and that a general law cannot be made applicable~~  
8 ~~within the meaning of Section 16 of Article IV of the California~~  
9 ~~Constitution because of unique circumstances concerning the South~~  
10 ~~Coast Air Quality Management District.~~

11 ~~SEC. 4. This act is an urgency statute necessary for the~~  
12 ~~immediate preservation of the public peace, health, or safety within~~  
13 ~~the meaning of Article IV of the Constitution and shall go into~~  
14 ~~immediate effect. The facts constituting the necessity are:~~

15 ~~Due to the court decision in Natural Resources Defense Council~~  
16 ~~v. South Coast Air Quality Management District (Super. Ct. Los~~  
17 ~~Angeles County, 2007, No. BS 110792), the South Coast Air~~  
18 ~~Quality Management District is unable to issue over a thousand~~  
19 ~~pending permits that are either exempt from offset requirements~~  
20 ~~or qualified to use offset credits from the district's Priority Reserve~~  
21 ~~and is required to set aside thousands of permits already issued.~~  
22 ~~Therefore, in order to allow the district to issue permits in an~~  
23 ~~expeditious manner as an urgent interim measure, it is necessary~~  
24 ~~that this act take effect immediately.~~